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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,590	02/17/2004	Bo Su Chen	H0005285(1139.1156101)	3424

22913 7590 03/08/2007  
WORKMAN NYDEGGER  
(F/K/A WORKMAN NYDEGGER & SEELEY)  
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SALT LAKE CITY, UT 84111

EXAMINER
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RODRIGUEZ, ARMANDO

ART UNIT	PAPER NUMBER
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2828

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/781,590

Applicant(s)

CHEN ET AL.

Examiner

ARMANDO RODRIGUEZ

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 and 40-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-34 is/are allowed.
- 6) ☒ Claim(s) 1-21 and 40-43 is/are rejected.
- 7) ☒ Claim(s) 44, 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 8, 2006 has been entered.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the output reflective part and the second external device of claim 22 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 13-17, 19-21, 40- 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Uehara, Kunio (JP 63089925).

Regarding claims 1, 5, 15, 40,

Figure 1 illustrate a light emitting module having a light source (21), a lens (11) the lens having a reflective surface (112), a non-reflective surface and a photodetector (41) which faces the lens for receiving a portion of the reflected light beam, as described in page 4 second paragraph. Page 4 first paragraph discloses the lens having a flat or concave reflecting part.

The method of claims 35 and 38 are anticipated in light of figures 1 and 5.

Regarding claim 2,

Page 4 first paragraph discloses the use of APC [applicant's controller].

Regarding claims 3, 41

Figure 1 illustrates the reflective surface on the input surface.

Regarding claim 4,

Page 4 first paragraph discloses the lens having a flat or concave reflecting part.

Regarding claims 6,

Page 4 first paragraph discloses the lens having a flat or concave reflecting part. Figure 1 illustrates an aspheric lens.

Regarding claim 7,

It is inherent for the light beam to have an illumination pattern on the lens.

Regarding claims 8, 42,

Figure 1 illustrates the light beam reflected onto the photodetector.

Regarding claim 9,

Figure 1 illustrates the reflective surface, which resembles a rectangular shape.

Regarding claims 13, 14,

Page 4 second paragraph describes the reflective surface (112) as including a thin metal film [applicant's coating].

Regarding claim 16,

Figure 1 illustrates the light emitting including an optical fiber (32).

Regarding claim 17,

Page 6 first paragraph discloses a coupling efficiency of 0.5dB and ensuring sufficient light for monitoring, which implies the reflecting surface reflects less than 25% of the power in the light.

Regarding claim 19,

Page 7 discloses the use of a light emitting diode.

Regarding claim 20,

Figure 1 illustrates a photodiode (41).

Regarding claim 21,

It is inherent for the light source to have a numerical aperture and figure 1 illustrate reflecting a portion [applicant's percent].

Regarding claim 43,

Figure 5 illustrates the use of semiconductor laser module of figure 1, which includes two photodiodes (44) and (b).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uehara, Kunio (JP 63089925).

Regarding claims 10, 11, 12,

Uehara, Kunio illustrates the shape of the lens to resemble a rectangular or square shape but is silent as to the shape being circular, oval or annular.

In accordance with MPEP 2144.04 B. Changes in Shape

In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) (The court held that the

configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant.).

In the present application having different geometrical shapes of the reflective surface is considered a matter of choice because regardless of the shape of the reflective surface the final function of the reflective surface is to reflect the incident light beam, as illustrated in figure 1 of the cited prior art.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uehara, Kunio (JP 63089925) in view of Scott et al (US 5,343,487).

Uehara, Kunio discloses in the abstract the use of a semiconductor laser but is silent as to the laser being a VCSEL, however VCSEL are semiconductor laser.

Therefore, it would have been obvious to use any of the well known semiconductor laser as described by Scott et al in the module of Uehara Kunio because it will provide a light beam for monitoring.

***Allowable Subject Matter***

Claims 44 and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 22-34 are allowed.

The following is an examiner's statement of reasons for allowance:

After reviewing applicant's amendment, arguments and conducting a search none of the cite prior arts alone or in combination discloses the claimed lens with the recited structural combination of independent claim 22, in particular having the input and output surface with a reflective surface for reflecting a portion of the beam to a first and second external device.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARMANDO RODRIGUEZ whose telephone number is 571-272-1952. The examiner can normally be reached on 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MINSUN HARVEY can be reached on 571-272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
ARMANDO RODRIGUEZ  
Primary Examiner  
Art Unit 2828

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